

For: State and County Offices

**2001 Good Faith Determinations for Unauthorized Disposition and
Removal of Marketing Assistance Loan Commodities**

Approved by: Deputy Administrator, Farm Programs



1 Overview

A

Background

The 2002 Act provides authority to the Secretary for the 2001 crop year **only**, to permit producers who marketed and otherwise lost beneficial interest in an outstanding marketing assistance loan commodity, to repay the loan at a rate that is the lesser of the loan rate, plus interest; or the alternative repayment rate in effect on the date the producer lost beneficial interest in the commodity.

This notice provides procedures applicable to producers who lost beneficial interest in a 2001 crop marketing assistance loan commodity before the loan was repaid and for whom a good-faith determination was made by STC.

B

Purpose

This notice provides State and County Offices:

- guidance on information and procedures necessary to implement the 2002 Act legislation mentioned in subparagraph A
- with instructions on what action to take when reviewing 2001 crop year good faith determinations involving unauthorized disposition or removal of a marketing assistance loan commodity.

Disposal Date	Distribution
June 1, 2003	State Offices, State Office relay to County Offices

2 Farm Bill Legislation Applicable to 2001 Crop Year

A

Good Faith Determinations for Loss of Beneficial Interest in a 2001 Crop Loan Commodity

For the 2001 crop year only, the 2002 Act allows eligibility to producers who:

- marketed or otherwise lost beneficial interest in the loan collateral before the loan is fully repaid
- were determined to have acted in good faith by COC.

For these cases only, producer may repay the loan at a rate that is the lesser of:

- the loan rate plus interest
 - the alternative repayment rate, established by CCC, in effect on the date the producer lost beneficial interest.
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B

Loss of Beneficial Interest

Producers are considered to have lost beneficial interest in a loan commodity whenever any of the following 3 conditions are not maintained by the producer:

- control of the commodity
 - risk of loss
 - title to the commodity.
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C

Unauthorized Disposition and Removal

Producers who dispose of or remove commodities under a marketing assistance loan without CCC authorization are considered to have lost control or title to the commodity and a violation of the marketing assistance loan agreement has occurred. When a violation is discovered, COC must determine whether the producer acted either in “good faith” or “**not** good faith”.

COC’s shall determine the producer acted in good faith when it is apparent the producer made a good faith effort to fully comply with the terms and conditions and rendered substantial performance of the marketing assistance loan.

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2 Farm Bill Legislation Applicable to 2001 Crop Year (Continued)

D

Loans Involving CCC-697, Lock-In's

For 2001 crop year marketing assistance loan quantities locked-in on CCC-697 and were marketed or disposed of before redeeming the loan at the locked-in repayment rate, producers must repay the:

- loan at principal plus interest
- alternative repayment rate in effect on the date beneficial interest was lost.

The locked-in repayment rate is **not** applicable in these cases.

3 Action

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State Office Action

State Offices shall:

- identify the applicable 2001 crop year violations that were determined to be “good faith”
- provide Kimberly Graham, PSD with a final report that includes the compiled list of producers and the total dollar amounts involved in granting the authorized relief, before October 30, 2002
- instruct County Offices to contact applicable producers in writing.

The letter to the producers shall contain an explanation of the authority granting relief, that is the 2002 Farm Bill permits the repayment of marketing assistance loans, for which beneficial interest was lost while the loan was outstanding, at the lesser of P+I or the repayment rate effective on the date beneficial interest was lost.

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3 Action (Continued)

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**County Office
Action**

Previous repayment receivables that were established as a result of the violation may have to be corrected through APSS. These repayments must be recalculated based on the alternative repayment rate. County Offices shall follow automation procedures in 12-PS for correcting repayments.

County Offices shall include in the letter to applicable producers:

- an explanation of the authority for granting relief
- for outstanding loans, the total repayment amount due based on the alternative repayment rate in effect on the date the producer lost beneficial interest
- for loans that had been previously repaid, an explanation of the revised repayment calculation and refund amount, if applicable.

Refunds due the producer as result of using the alternative repayment rate must be issued as soon as practicable.
